

INTERVIEW SUMMARY

Applicants respectfully thank the Examiner for a courteous interview held on March 9, 2010. During this interview, the undersigned attorney, attorney Michael D. Schwartz, and the Examiner discussed that the claims of the present application are patentable over the art cited in the December 23, 2009 Office Action for the reasons discussed below.

REMARKS/ARGUMENTS

Claims 1-3, 6, 7, 10-16, 18, 19, 21, 22 and 24-28 are pending in the application.

Claim Rejections – 35 U.S.C. § 103

Claims 1-3, 6, 7, 10-12, 15, 16, 18, 19, 21, 22, and 24-26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,660,039 to Evans et al. ("Evans") in view of U.S. Patent App. Pub. No. 2004/0186584 to Keller ("Keller"). The Examiner relies on Evan as discloses all limitations of independent claims 1 and 15 except for a pin being located in an outer perimeter side surface. Applicants respectfully disagree.

Independent claim 1 recites a device including, *inter alia*, a first tibia base plate, an insert, a *connector* rotatably connecting the insert to the first tibia base plate, *and* at least one removable *pin* configured to engage an opening formed in an outer perimeter side surface of each of the first base plate and the insert to thereby prevent relative rotation. Independent claim 15 recites a device including, *inter alia*, a first tibia base plate, an insert, *a means for rotatably connecting* said insert to said tibia base plate, *and a removable means for preventing relative rotation* that is configured to engage an opening in an outer perimeter side surface of each of the first base plate and insert.

In contrast, Evans does not disclose a connector *and* a pin. The Examiner relies on post element 18 of Fig. 1 as showing a connector, and the Examiner relies on peg element 49 of Fig. 22 as showing a pin. However, element 49 is not a separate element from element 18 but an alternative embodiment thereof. Evans discloses element 18 in Fig. 1 to be a post (*see* Evans, col. 9, lines 38-42). Evans further discloses that Fig. 1 (including *post* element 18) is a view of a preferred embodiment of an apparatus, and Fig. 19 (including element 49) is a view of an

alternate embodiment of the apparatus illustrating constructions for the *post* portion and the connection between the post and a tray. Fig. 22 (including element 49) is disclosed to be a schematic plan view of an alternate construction of the tibial insert to be used with the *post* construction of Fig. 19 (*see* Evans. col. 5, lines 23-24 and col. 6, lines 13-19). As element 49 is an alternate embodiment of post 18 rather than a separate element, Evans does not disclose (1) a connector *and* a pin or (2) a means for rotatably connecting an insert to a tibia base plate *and* a removable means for preventing relative motion as recited in independent claims 1 and 13, respectively.

Therefore, for at least the reasons set forth above with respect to independent claims 1 and 15, Applicants respectfully submit that claims 2-3, 6-7, and 10-14 and claims 16, 18, 19, 21-22, 24-28 that depend from claims 1 and 15, respectively, are not obvious over Evans in view of Keller.

Claims 13, 14, 27, and 28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans in view of Keller and further in view of additional references.

In forming the rejection of claims 13, 14, 27, and 28, the Examiner relies on Evans in view of Keller as disclosing or suggesting each and every limitation of independent claims 1 and 15, from which claims 13 and 14 and claims 27 and 28 respectively depend. For the reasons set forth above with respect to independent claims 1 and 15, Evans and Keller fail to disclose each and every limitation of independent claims 1 and 15.

Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of claims 13 and 14, and claims 27 and 28, which depend from independent claims 1 and 15, respectively.

Application Serial No. 10/771,887
Amendment dated March 23, 2010
Reply to final Office Action dated December 23, 2009

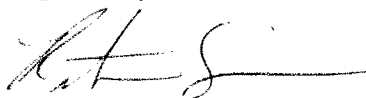
Conclusion

It is believed that the above represents a complete response to the Official Action and reconsideration is requested. Specifically, Applicants respectfully submit that the application is in condition for allowance and respectfully request allowance thereof.

In the event Applicants have overlooked the need for an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

Should the Examiner have any further questions regarding any of the foregoing, she is respectfully invited to telephone the undersigned at 260-424-8000.

Respectfully submitted,



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RS/nw

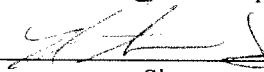
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March 23, 2010

Date